

ASSEMBLY BILL

No. 328

Introduced by Assembly Member V. Manuel Pérez

February 13, 2013

An act to amend Section 12012.90 of the Government Code, relating to tribal gaming.

LEGISLATIVE COUNSEL'S DIGEST

AB 328, as introduced, V. Manuel Pérez. Tribal gaming: revenue sharing.

Existing law creates in the State Treasury the Indian Gaming Revenue Sharing Trust Fund and the Indian Gaming Special Distribution Fund for the receipt and deposit of moneys received by the state from certain Indian tribes pursuant to the terms of tribal-state gaming compacts, and authorizes moneys in those funds to be used for specified purposes, including making distributions to noncompact tribes. Existing law requires, for specified fiscal years, that the California Gambling Control Commission determine the anticipated total amount of shortfalls in payments likely to occur in the Indian Gaming Revenue Sharing Trust Fund for the upcoming fiscal year and provide that figure to the Senate and Assembly for the purpose of establishing an estimate of the amount needed to transfer from the Indian Gaming Special Distribution Fund to backfill the Indian Gaming Revenue Sharing Trust Fund. Existing law requires the Legislature to transfer moneys from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund an amount sufficient for each eligible recipient tribe to receive a total not to exceed \$275,000 for each quarter the tribe is eligible to receive moneys. If the transfer is insufficient the commission is required to submit a request for a budget augmentation.

This bill would require the commission, if it is determined that there is an insufficient amount in the Indian Gaming Revenue Sharing Trust Fund in a fiscal year to distribute the quarterly payments pursuant to these provisions to each eligible recipient Indian tribe, to direct a portion of a specified revenue contribution pursuant to certain tribal-state gaming compacts that would otherwise be deposited into the General Fund, to instead be deposited into the Indian Gaming Revenue Sharing Trust Fund to increase the revenue contribution to that fund in an amount sufficient to ensure the fund has sufficient resources for each eligible recipient Indian tribe to receive the full \$275,000 quarterly payments.

This bill would conform these provisions to changes made by the Governor's Reorganization Plan 2.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12012.90 of the Government Code is
2 amended to read:

3 12012.90. (a) (1) For each fiscal year commencing with the
4 2002–03 fiscal year to the ~~2004–05~~ 2004–05 fiscal year, inclusive,
5 the California Gambling Control Commission shall determine the
6 aggregate amount of shortfalls in payments that occurred in the
7 Indian Gaming Revenue Sharing Trust Fund pursuant to Section
8 4.3.2.1 of the tribal-state gaming compacts ratified and in effect
9 as provided in subdivision (f) of Section 19 of Article IV of the
10 California Constitution as determined below:

11 (A) For each eligible recipient Indian tribe that received money
12 for all four quarters of the fiscal year, the difference between one
13 million one hundred thousand dollars (\$1,100,000) and the actual
14 amount paid to each eligible recipient Indian tribe during the fiscal
15 year from the Indian Gaming Revenue Sharing Trust Fund.

16 (B) For each eligible recipient Indian tribe that received moneys
17 for less than four quarters of the fiscal year, the difference between
18 two hundred seventy-five thousand dollars (\$275,000) for each
19 quarter in the fiscal year that a recipient Indian tribe was eligible
20 to receive moneys and the actual amount paid to each eligible
21 recipient Indian tribe during the fiscal year from the Indian Gaming
22 Revenue Sharing Trust Fund.

1 (2) For purposes of this section, “eligible recipient Indian tribe”
2 means a noncompact tribe, as defined in Section 4.3.2(a)(i) of the
3 tribal-state gaming compacts ratified and in effect as provided in
4 subdivision (f) of Section 19 of Article IV of the California
5 Constitution.

6 (b) The California Gambling Control Commission shall provide
7 to the committee in the Senate and Assembly that considers the
8 State Budget an estimate of the amount needed to backfill the
9 Indian Gaming Revenue Sharing Trust Fund on or before the date
10 of the May budget revision for each fiscal year.

11 (c) An eligible recipient Indian tribe may not receive an amount
12 from the backfill appropriated following the estimate made
13 pursuant to subdivision (b) that would give the eligible recipient
14 Indian tribe an aggregate amount in excess of two hundred
15 seventy-five thousand dollars (\$275,000) per eligible quarter. Any
16 funds transferred from the Indian Gaming Special Distribution
17 Fund to the Indian Gaming Revenue Sharing Trust Fund that result
18 in a surplus shall revert back to the Indian Gaming Special
19 Distribution Fund following the authorization of the final payment
20 of the fiscal year.

21 (d) Upon a transfer of moneys from the Indian Gaming Special
22 Distribution Fund to the Indian Gaming Revenue Sharing Trust
23 Fund and appropriation from the trust fund, the California
24 Gambling Control Commission shall distribute the moneys without
25 delay to eligible recipient Indian tribes for each quarter that a tribe
26 was eligible to receive a distribution during the fiscal year
27 immediately preceding.

28 (e) For each fiscal year commencing with the 2005-06 fiscal
29 year, all of the following shall apply and subdivisions (b) to (d),
30 inclusive, shall not apply:

31 (1) On or before the day of the May budget revision for each
32 fiscal year, the California Gambling Control Commission shall
33 determine the anticipated total amount of shortfalls in payment
34 likely to occur in the Indian Gaming Revenue Sharing Trust Fund
35 for the upcoming fiscal year, and shall provide to the ~~committee~~
36 ~~committees~~ in the Senate and Assembly that ~~considers~~ *consider*
37 the State Budget an estimate of the amount needed to transfer from
38 the Indian Gaming Special Distribution Fund to backfill the Indian
39 Gaming Revenue Sharing Trust Fund for the next fiscal year. The
40 anticipated total amount of shortfalls to be transferred from the

1 Indian Gaming Special Distribution Fund to the Indian Gaming
2 Revenue Sharing Trust Fund shall be determined by the California
3 Gambling Control Commission as follows:

4 (A) The anticipated number of eligible recipient tribes that will
5 be eligible to receive payments for the next fiscal year, multiplied
6 by one million one hundred thousand dollars (\$1,100,000), with
7 that product reduced by the amount anticipated to be paid by the
8 tribes directly into the Indian Gaming Revenue Sharing Trust Fund
9 for the fiscal year.

10 (B) This amount shall be based upon actual payments received
11 into the Indian Gaming Revenue Sharing Trust Fund the previous
12 fiscal year, with adjustments made due to amendments to existing
13 tribal-state compacts or newly executed tribal-state compacts with
14 respect to payments to be made to the Indian Gaming Revenue
15 Sharing Trust Fund.

16 (2) The Legislature shall transfer from the Indian Gaming
17 Special Distribution Fund to the Indian Gaming Revenue Sharing
18 Trust Fund an amount sufficient for each eligible recipient tribe
19 to receive a total not to exceed two hundred seventy-five thousand
20 dollars (\$275,000) for each quarter in the upcoming fiscal year an
21 eligible recipient tribe is eligible to receive moneys, for a total not
22 to exceed one million, one hundred thousand dollars (\$1,100,000)
23 for the entire fiscal year. The California Gambling Control
24 Commission shall make quarterly payments from the Indian
25 Gaming Revenue Sharing Trust Fund to each eligible recipient
26 Indian tribe within 45 days of the end of each fiscal quarter.

27 (3) If the transfer of funds from the Indian Gaming Special
28 Distribution Fund to the Indian Gaming Revenue Sharing Trust
29 Fund results in a surplus, the funds shall remain in the Indian
30 Gaming Revenue Sharing Trust Fund for disbursement in future
31 years, and if necessary, adjustments shall be made to future
32 distributions from the Indian Gaming Special Distribution Fund
33 to the Revenue Sharing Trust Fund.

34 (4) In the event the amount appropriated for the fiscal year is
35 insufficient to ensure each eligible recipient tribe receives the total
36 of two hundred seventy-five thousand dollars (\$275,000) for each
37 fiscal quarter, the Department of Finance, after consultation with
38 the California Gambling Control Commission, shall submit to the
39 Legislature a request for a budget augmentation for the current

1 fiscal year with an explanation as to the reason why the amount
2 appropriated for the fiscal year was insufficient.

3 (5) At the end of each fiscal quarter, the California Gambling
4 Control Commission's Indian Gaming Revenue Sharing Trust
5 Fund report shall include information that identifies each of the
6 eligible recipient tribes eligible to receive a distribution for that
7 fiscal quarter, the amount paid into the Indian Gaming Revenue
8 Sharing Trust Fund by each of the tribes pursuant to the applicable
9 sections of the tribal-state compact, and the amount necessary to
10 backfill from the Indian Gaming Special Distribution Fund the
11 shortfall in the Indian Gaming Revenue Sharing Trust Fund in
12 order for each eligible recipient tribe to receive the total of two
13 hundred seventy-five thousand dollars (\$275,000) for the fiscal
14 quarter.

15 ~~(6) Based upon the projected shortfall in the Indian Gaming~~
16 ~~Revenue Sharing Trust Fund, for the 2005-06 fiscal year, the sum~~
17 ~~of fifty million dollars (\$50,000,000) is hereby transferred from~~
18 ~~the Indian Gaming Special Distribution Fund to the Indian Gaming~~
19 ~~Revenue Sharing Trust Fund and is hereby appropriated from that~~
20 ~~fund to the California Gambling Control Commission for~~
21 ~~distribution to each eligible recipient tribe pursuant to this section.~~

22 (f) (1) *If it is determined that there is an insufficient amount in*
23 *the Indian Gaming Revenue Sharing Trust Fund in a fiscal year*
24 *to distribute the quarterly payments pursuant to this section to*
25 *each eligible recipient Indian tribe, then the California Gambling*
26 *Control Commission shall direct a portion of the revenue*
27 *contribution in Section 4.3.1(b)(i) of the tribal-state gaming*
28 *compacts specified in paragraph (2), which are ratified and in*
29 *effect as provided in subdivision (f) of Section 19 of Article IV of*
30 *the California Constitution, to be deposited into the Indian Gaming*
31 *Revenue Sharing Trust Fund to increase the revenue contribution*
32 *to that fund in an amount sufficient to ensure the fund has sufficient*
33 *resources for each eligible recipient Indian tribe to receive the*
34 *full two-hundred-seventy-five-thousand-dollar (\$275,000) quarterly*
35 *payments pursuant to this section.*

36 (2) *This subdivision shall apply only to those tribal-state gaming*
37 *compacts that include Section 4.3.1(b)(i), or any comparable*
38 *provision, as it appears in the tribal-state gaming compacts entered*
39 *into by the following tribes, and amended in 2006:*

40 (A) *The San Manuel Band of Mission Indians.*

- 1 (B) *The Morongo Band of Mission Indians.*
- 2 (C) *The Pechanga Band of Luiseño Indians.*